
**FRAUD AND SUSPECTED LAW VIOLATIONS
RECIPIENT FRAUD**

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DIVISION 20 FRAUD AND SUSPECTED LAW VIOLATIONS

CHAPTER 20-000 RECIPIENT FRAUD

20-001 INTRODUCTION 20-001

The purpose of these regulations is to:

- .1 Clarify the meaning of fraud in public social services programs (including public assistance).
- .2 Establish a basis for a sound and uniform relationship with law enforcement offices.
- .3 Establish basic standards for county welfare department (CWD) operations and procedures for fraud prevention and detection to ensure prompt and consistent action in situations where there are valid reasons to suspect fraud has been practiced.
- .4 Provide a flow of consistent and precise data on the extent of fraud and the status of work relating to its prevention, control and handling.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

20-003 DEFINITION OF FRAUD 20-003

.1 Definition of Fraud

Fraud exists when a person, on behalf of himself or others, has:

- .11 Knowingly, and with intent to deceive or defraud, made a false statement or representation to obtain benefits, obtain a continuance or increase of benefits, or avoid a reduction of aid benefits.
- .12 Knowingly, and with intent to defraud, failed to disclose a fact which, if disclosed, could have resulted in the denial, reduction or discontinuance of benefits.
- .13 Accepted benefits knowing he/she is not entitled thereto, or accepted any amount of benefits knowing it is greater than the amount to which he/she is entitled.
- .14 For the purpose of obtaining, continuing, or avoiding a reduction or denial of benefits, made statements which he/she did not know to be true with reckless disregard for the truth.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10980, Welfare and Institutions Code.

20-004	REFERRAL FOR FRAUD INVESTIGATION	20-004
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.1 Referral of Cases

Upon receipt of a fraud allegation or the observation of conditions which, based upon knowledge of the case, provides reason to suspect that fraud exists or has been attempted as specified in Section 20-003.1, a complete and detailed referral shall be made to the Special Investigative Unit (SIU) for investigation which shall, if warranted, file a request for complaint with the prosecuting authority as provided in Section 20-007.3.

A complete and detailed request for investigation shall be made to the SIU when there are reasonable grounds to suspect that a crime (i.e., fraud, perjury, embezzlement, trafficking, etc.) against a public social services program has occurred. Reasonable grounds exist when one or more of the following criteria are met:

- .11 An overpayment/overissuance may have or has resulted from a recipient's failure to report information pertinent to eligibility or benefits.
- .12 A questionable situation exists and the applicant/recipient or third party will not cooperate in providing necessary verification that affects eligibility or benefit amount.
- .13 The program staff person finds conflicting information that could affect eligibility or benefit amount, and any further action on his/her part could jeopardize the investigator's ability to investigate.
- .14 Situations involving embezzlement, collusion, conspiracy, trafficking, blackmarketing or other general program violations.
- .15 Forgery situations, providing that the instrument (e.g., warrant, Authorization to Participate) has been transacted.
- .16 The program staff person receives an allegation of fraud from any government agency.
- .17 A public complaint containing facts which allege a crime (i.e., fraud, perjury, trafficking, embezzlement, etc.) against a public social services program.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 10600, and 10980, Welfare and Institutions Code.

20-005	COUNTY RESPONSIBILITY	20-005
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.1 General

The CWD is responsible for making all determinations as to eligibility or ineligibility for assistance and for establishing the amount of overpayment/overissuance where ineligibility for any benefit is found. The CWD is also responsible for preventing and discovering fraudulent actions by recipients to the furthest extent possible, and for taking prompt and decisive steps to investigate and establish the facts regarding any situation in which it appears possible that benefits are being received on the basis of incorrect, incomplete or false data. When the CWD has grounds to suspect that eligibility was established or an overpayment/overissuance of assistance, regardless of amount, was due to fraud, the CWD is responsible for completing an investigation and, where evidence dictates, requesting a complaint from the prosecuting authority. At the request of the prosecuting authority, the CWD is responsible for providing documentary evidence, and ensuring the appearance of investigators and other county employees at hearings and trials.

.2 Special County Responsibilities

Each county shall:

- .21 Subject to the provisions of Section 20-007.1, establish and maintain a Special Investigative Unit (SIU) consisting of staff trained and qualified to prevent, detect, and investigate fraud and carry out investigations of other possible criminal activity within the purview of the CWD.
- .22 Notify the California Department of Social Services (CDSS) of those investigators exercising the option to carry firearms, pursuant to Penal Code Section 830.35.
- .23 Maintain complete records on all fraud investigation activities for statistical reports to be submitted to CDSS.
- .24 Provide periodic refresher and special training in the prevention and detection of fraud to all program staff and first-line supervisors, utilizing curricula approved by the CDSS. It is recommended that new employees receive a minimum of eight hours of such training during the first four months of their employment. Minimum adequate refresher training is considered to be four hours annually.

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.3 Responsibility of Eligibility Workers and Supervisors

.31 General

- .311 Program staff and program supervisors are responsible for determining eligibility and the correct amount of benefits for all recipients. They must ensure that the applicant/recipient understands his/her responsibility for providing correct and complete data and for promptly reporting facts required for correct determination of eligibility and the amount of benefits. The program staff must also ensure that the applicant/recipient understands the penalties involved for misstating or not reporting relevant facts. This responsibility should be reviewed with the applicant/recipient regularly as a reminder or to clear up any misunderstanding.
- .312 Program staff are also responsible for taking prompt action on information received and for relating information received or observed which may affect future eligibility or need, subject to the provisions of Division 22-000.
- .313 When it is known that recipients have a problem in reporting changes, more frequent contact may minimize the problem when there is reasonable doubt as to the continuing eligibility or correctness of benefits. This type of follow-up of information to prevent possible fraudulent action by the recipient is a recognized "helping" process for which program staff are responsible.
- .314 The observations of the program staff and information from unrelated conversation may bring out the facts even though the applicant/recipient may not have intended to report them in the beginning.

.32 Certification and Reporting Requirements

- .321 Program staff shall advise applicants/recipients of the possibility of criminal penalties for making false statements or failing to report information or circumstances which may affect eligibility or the amount of benefits, and shall certify that the staff have fulfilled this responsibility during each benefit application or eligibility redetermination. The certification shall be signed and dated by both the program staff person and the applicant/recipient on the same page.

20-005	COUNTY RESPONSIBILITY (Continued)	20-005
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- .322 All cases in which county employees have reasons to suspect fraud based on the criteria set forth in Section 20-003.2 shall be referred to the SIU within five working days. When an applicant is suspected of fraud, the case shall be referred to the SIU immediately and prior to completion of the application for or granting of benefits. Because of the pendency of the application, the SIU shall investigate these cases on a priority basis in order to resolve any questions of possible fraud in time to allow the county to complete the determination of eligibility within the time limits imposed upon the particular program. The fact of, or information concerning, a referral to the SIU shall not be disclosed to unauthorized persons.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10600, Welfare and Institutions Code.

20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS	20-006
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.1 Definition

- .11 The Income and Eligibility Verification System (IEVS) is a federally-mandated system under Title IV-A, for Temporary Assistance for Needy Families/California Work Opportunity and Responsibility for Kids (TANF/CalWORKs), and Title XIX, for the Medi-Cal Only programs, of the Social Security Act for the purpose of verifying eligibility and benefit amounts available under these programs. The system is a state mandate for the federal Food Stamp Program and the California Food Assistance Program.
- .12 IEVS consists of a coordinated data exchange among the various benefit programs using a standardized format for matching purposes.
- .121 The databases used in the ongoing IEVS "match" include, but are not limited to:
- (a) Wage information from the State Wage Information Collection Agency;
 - (b) Unemployment/disability compensation benefits from the agencies administering those programs;

20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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- (c) Benefits/pensions/wage information from the Social Security Administration (SSA);
- (d) Internal Revenue Service (IRS)/Franchise Tax Board (FTB) unearned income data;
- (e) Social Security number (SSN) verification information from SSA; and
- (f) Inter/intra-county duplicate benefit matches.

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Under these IEVS regulations, the CWD shall submit certain information on applicants and recipients to the state for matching against other databases. All applicant data is submitted to, and processed by, the California Department of Health Services (CDHS). All recipient data is submitted to, and processed by, the California Department of Social Services (CDSS).

Upon receipt of the matched IEVS data from the state, the CWD is to use this information to determine eligibility and the appropriate level of benefits by reviewing and comparing it to case record information, and by verifying the applicability of the matched data.

The CWD is also responsible for maintaining records on the use of IEVS information as it applies to both applicants and recipients.

All of the county responsibilities with regard to the input and use of IEVS data are subject to specific time frames (regulated in Handbook Section 20-006.424).

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20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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.2 IEVS Data Input

For the purposes of this section, the terms "applicant" and "recipient" shall include all individuals seeking or receiving assistance and any other individuals whose income and resources are considered in determining eligibility and the amount of benefits, if the SSN has been obtained by the CWD. Applicants and recipients of nonfederally-funded programs such as State-only programs are not considered applicants and recipients for the purposes of IEVS.

.21 Applicant Data

- .211 The CWD shall submit to CDHS, in a format prescribed by CDHS, specific identifying information such as, but not limited to, name, SSN, date of birth, on every applicant for CalWORKs, Food Stamp, and Refugee/Entrant Cash Assistance programs for the purpose of operating IEVS.
- .212 The CWD shall input applicant data into IEVS at the first available opportunity following the CWD's receipt of the necessary information from the applicant, but no later than five working days after the signed statement of facts is completed.
- .213 The CWD shall not submit information to IEVS on any applicant who has been determined ineligible, except to the extent that the submission of such information is required under .2 of this section.
- .214 Information about individual applicants who cannot provide SSNs at application shall be requested from IEVS as soon as possible, but no later than the time frame specified in .221 of this section after the CWD is notified of their SSNs.

.22 Recipient Data

- .221 Every quarter the CWD shall submit to CDSS, in a format prescribed by CDSS, income and eligibility information on each recipient of CalWORKs, Food Stamps, and Refugee/Entrant Cash Assistance, for the purpose of operating IEVS. Nonfederally-funded cases may be submitted to CDSS in a format as prescribed by CDSS.

20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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- .222 Input for the Payment Verification System will continue to be extracted by CDSS monthly from the county input to the Central Database.

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.3 Uses of IEVS Information

The CWD shall use information obtained through the IEVS for the purposes of:

- .31 Verifying the applicant's/recipient's eligibility.
- .32 Verifying the proper amount of benefits.
- .33 Determining whether a recipient received benefits to which he/she was not entitled.
- .34 Conducting criminal or civil prosecutions.

.4 IEVS Match Follow-up Time Frames

.41 Applicants.

If the IEVS information is received during the application period, the CWD shall use it, to the extent possible, in making the eligibility determination. However, the eligibility determination shall not be delayed pending receipt of IEVS information if other information establishes the individual's eligibility.

.42 Recipients.

The CWD shall, within the time frames prescribed by federal rule (See Handbook Section 20-006.424), complete a case action or document in the case record that no case action is necessary.

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- .421 Current federal rule prescribes that the IEVS match follow-up shall be completed within 45 days of the date the state agency completes the match.

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- .422 Case action shall include a review of the information and comparison of it to the case record.

- (a) For new or previously unverified information received, the CWD shall contact the recipient and/or income source to resolve discrepancies as specified in Section 20-006.54.
- (b) If the discrepancy warrants reducing benefits or terminating eligibility, the CWD shall send a notice of action in accordance with Sections 22-071 and 22-072.

- .423 Delays in completion of case action may be allowed as specified by federal rule provided that:

- (a) The reason that the action cannot be completed is because the requested third party verification has not been received in accordance with Section 20-006.543(c); and
- (b) Action is completed promptly once the third party verification is received; or
- (c) If third party verification has not been received by the time of redetermination/recertification, the CWD shall take action and make its decision based on available information provided by the recipient and any other information in its possession.

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- .424 Current federal rules prescribe that action may be delayed beyond the 45-day time frame on no more than 20 percent of the IEVS case matches.

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20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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- .43 The time frames outlined in Section 20-006.4 do not apply to cases which have been closed by the time the data match results are received. The CWD shall identify such situations and pursue claims and other actions.
- .5 Verification of IEVS Information
- .51 Upon receipt of the IEVS matched data, the CWD shall review and compare the IEVS information against information contained in the case record to determine whether it affects the applicant's or recipient's eligibility or amount of benefits.

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- .52 Factors to be considered in determining the applicability of the information include: complete and positive match between the IEVS-obtained information and identifying case information, i.e., first, middle and last name, SSN, age and date of birth; agreement with other information contained in the case record or otherwise available to the CWD; and appropriateness of the information in relationship to the known circumstances of the applicant or recipient.

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- .53 IEVS Information Considered Verified Upon Receipt
- .531 IEVS information received directly from the income/benefit source shall be considered verified upon receipt. Such information includes Social Security and Supplemental Security Income benefit information from SSA, cash aid benefit information from another county or state, and unemployment insurance and disability insurance benefits from California or another state.
- .532 If the IEVS information is determined to be applicable to the case circumstances, the CWD shall take appropriate action without additional verification/documentation of the information or shall document in the case file that no action is required.
- .533 If based on other information available to the CWD, information from a particular income or benefit source is questionable or, if based on past experience, there is reason to doubt the applicability of the IEVS-obtained information, the CWD shall independently verify the information as specified in Section 20-006.54.

20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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.54 IEVS Information Requiring Independent Verification

- .541 For IEVS information received from a secondary source which includes wage information reported by the Employment Development Department (EDD), SSA or a wage reporting agency in another state; and unearned income from IRS or FTB; and for IEVS-obtained information which the CWD considers questionable in accordance with Section 20-006.533, the CWD shall not terminate, deny or reduce benefits based on this information until the information has been independently verified.
- .542 Independent verification shall include verification of the amount of the asset or the income involved; determination of whether the recipient actually has or had access to such asset or income; and identification of the period(s) when the individual actually had the asset or income.
- .543 Except as permitted in (d) below, the CWD shall verify the information by notifying the recipient in writing of the information received and requesting that the recipient respond within 10 days. This notification shall not replace the required notice of action to reduce or terminate benefits.
- (a) The written notification shall clearly explain the information the CWD has, its relevance to the individual's eligibility or benefit, and what actions the CWD will take in the event the individual fails to respond to the notification.
- (b) If the recipient does not respond to the notification or responds and is unable to provide sufficient information to resolve the discrepancy, the CWD shall contact the appropriate income or benefit source. Prior authorization from the recipient is not required for such contacts, except when the unearned income source is a financial institution. In those cases, prior authorization is required as outlined in Government Code Section 7460 (Financial Privacy Act). These cases may be referred to the SIU in accordance with Section 20-003.2.

20-006	INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) REQUIREMENTS (Continued)	20-006
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- (1) For Food Stamps, if the household fails or refuses to respond to the notification, the CWD shall send a Notice of Action terminating the household's participation in accordance with Section 63-504.26.
 - (c) When the recipient or appropriate source provides the verification, the CWD shall either take case action (by sending an appropriate Notice of Action) or shall document in the case record that no action is required.
 - (d) Nothing in this subsection shall be construed to limit referrals to the SIU. If the SIU chooses to verify the IEVS data by contacting the appropriate income, resource, or benefit source, a written notice to the recipient informing him/her of the IEVS data is not required.
- .6 IEVS Recordkeeping and Reporting
 - .61 The CWD shall maintain records which contain information concerning all denials, discontinuances, and benefit modifications which have resulted from the use of IEVS information, including the basis for and the dollar value of each action.
 - .62 The CWD shall report specified information as prescribed by the appropriate state agency for the purposes of determining compliance with IEVS requirements and evaluating the effectiveness of IEVS.
- .7 Safeguards

The CWD shall use safeguards in accordance with Section 19-002.1 and IRS Publication 1075 to protect the confidentiality of taxpayer information.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063(b), 10553, and 10554, Welfare and Institutions Code.

20-007	SPECIAL INVESTIGATIVE UNIT (SIU)	20-007
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.1 Special Investigative Units (SIUs) shall be established and organized, in accordance with the criteria set forth below for the purpose of investigating suspected welfare fraud and suspected violations of law in connection with matters for which the CWD has responsibility, and to function as a liaison between the CWD and law enforcement agencies.

.11 Establishment and Staffing

- .111 CWDs with a CalWORKs caseload of 1,000 cases or more shall maintain an SIU. Equivalent substitute units meeting the criteria of Division 20 may be established in other county departments under a plan of cooperation approved by CDSS. Referrals to these units shall be made in accordance with the provisions for referral to the SIU.
- .112 CWDs with a CalWORKs caseload of less than 1,000 may maintain an SIU. Counties with less than 1,000 cases which do not maintain an SIU shall designate one employee to be responsible for referral of suspected fraud cases to the prosecuting authority for investigation and for coordination and cooperation with CDSS.
- .113 The SIU shall include first line supervisors and investigators who are peace officers and whose primary duty is the investigation of crimes (i.e., fraud, perjury, embezzlement, trafficking, etc.) relating to public social services. A ratio of at least one investigator for every 1,000 CalWORKs cases or major fraction thereof is recommended.
- .114 The SIU shall also include a qualified person or persons responsible for the overpayment/overissuance computations in all suspected fraud cases, or have administrative procedures in place which provide for such a computation within 45 days of the SIU's request.
- .115 Investigative Personnel Minimum Standards

Each first-line supervisor and welfare fraud investigator shall be a peace officer (pursuant to Penal Code Section 830.35) and meet the minimum standards established for peace officers (pursuant to Penal Code Section 832 and Government Code Sections 1029 - 1031).

20-007	SPECIAL INVESTIGATIVE UNIT (SIU) (Continued)	20-007
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.116 Background Investigation

- a. Prior to appointment, each first line supervisor and welfare fraud investigator shall have had an investigation of his/her background, to ensure that all the minimum standards, as specified in .115 above, have been met.
- b. The county shall maintain a file on each first line supervisor and welfare fraud investigator, which shall consist of all information pertinent to the background investigation and provide documentation that the minimum standards for employment, as specified in .115 above, have been met.

.2 Organization Within the CWD

- .21 The SIU shall be a separate organization, independent of organizations performing eligibility and benefit determination functions.
- .22 Upon request, counties shall submit for approval by the Director of CDSS, a Fraud Control Operating Plan which shall include at a minimum a description of the reporting relationship between the SIU and the county welfare director. Such plans will be evaluated on the basis of: (1) the number of cases pending investigation in the SIU, (2) the rate of investigations per total CalWORKs caseload, (3) the percentage of referrals to the SIU which result in requests for criminal complaints by the prosecuting authority, and (4) the results of investigations of random case samples which the Director of CDSS, may require for the purpose of evaluating fraud prevention and detection practices and other factors the Director may deem relevant. The Director of CDSS may also require organizational and/or other changes prior to approval of the Fraud Control Operating Plan.

.3 Authority and Responsibility

The SIU shall:

- .31 Investigate any activity, particularly during intake, which may constitute welfare fraud.
- .32 Have access to all CWD files, records, and personnel relevant to the investigations they conduct.

20-007	SPECIAL INVESTIGATIVE UNIT (SIU) (Continued)	20-007
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- .33 Conduct all investigations in compliance with due process of law and so as not to infringe upon the constitutional rights of applicants/recipients. Home visits for the purposes of investigation may be made during reasonable hours of normal family activity. Mass or indiscriminate home visits are prohibited. Any interviews with applicants or recipients or possible witnesses shall be conducted without threats, duress, force, false showing of authority or other misrepresentation. Search of premises or removal of physical items of evidence of fraud is prohibited without a valid legal process or the permission of the applicant or recipient upon full appraisal of the applicant's or recipient's rights. It is incumbent upon SIU staff to conduct themselves with courtesy and with respect for the rights of all persons involved.
- .34 Prepare investigative reports on completed investigations in accordance with forms and procedures prescribed by the local CWD and/or the prosecuting authority.
- .35 Request issuance of criminal complaints from the prosecuting authority on all cases showing evidence of fraud or other criminal activity, providing the prosecuting authority with all records and reports pertinent to the case.
- .36 Not be bound by the restrictions placed on eligibility determinations in Section 40-157.22 requiring recipient/applicant permission to contact collateral sources.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063(b), 10553, and 10554, Welfare and Institutions Code.

20-008	LAW ENFORCEMENT OFFICIALS	20-008
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- .1 When the CWD refers a completed investigation to the prosecuting authority for an opinion as to prosecution, the prosecuting authority will make the decision as to whether or not a criminal complaint is to be filed, or whether additional investigation is to be conducted. In the event of prosecution, the SIU will track the action taken by the prosecuting authority and will also record the final disposition of each case. Nothing within this section will preclude the county from filing a civil action for recovery.

Nothing in this chapter precludes law enforcement officials from initiating prosecutions for fraud against welfare applicants/recipients when the necessity for such action comes to their attention from sources other than referral by the CWD. The CWD is to be notified of such actions and of the outcome thereof.

20-009	CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)	20-009
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- .1 CDSS shall provide guidance in the area of fraud to the CWDs, prosecuting authorities, and other agencies involved in the control of welfare fraud and related crimes. It shall assist counties in the development, implementation, and administration of programs designed to prevent, deter, identify, and investigate welfare fraud. Additionally, CDSS shall evaluate and make recommendations for the improvement of county fraud programs.

CDSS also provides training for CWD administrative and program staff in welfare fraud detection, and for investigative personnel in investigative techniques. CDSS is also responsible for the development of forms and procedures to ensure compliance with these regulations.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10600, Welfare and Institutions Code.

**FRAUD AND SUSPECTED LAW VIOLATIONS
MISUSE OF FUNDS**

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CHAPTER 20-100 MISUSE OF FUNDS

20-101 SUSPECTED MISUSE OF CALWORKS FUNDS 20-101

.1 Reasonable Grounds - Misuse of CalWORKs Funds

In the absence of credible information to the contrary, there are reasonable grounds to suspect misuse of CalWORKs funds when a person who lives with a CalWORKs family has little or no income or resources from which to meet the person's own subsistence needs.

.2 Procedure if Reasonable Grounds Exist

Upon determination by program staff or any other county employee that there are reasonable grounds to suspect that part of a CalWORKs grant is being willfully and knowingly used for the support of another person rather than for support of the needy children and the caretaker, as required by Welfare and Institutions Code Section 11480, the case shall be referred to the SIU for investigation and, if warranted, a request for a complaint shall be filed with the prosecuting authority in accordance with the following procedures:

.21 Notifications Regarding Suspected Law Violation by SIU

The person and the caretaker shall both be advised verbally and in writing that continuation may subject them to prosecution for violating Welfare and Institutions Code Section 11480. The written notice shall contain a statement that, unless the person secures sufficient income to meet at least his/her own needs or leaves the home, the prosecuting authority will be informed of the suspected misuse of the grant. No other statements shall be made by CWD personnel regarding the bringing of charges against the individual by the prosecuting authority.

.22 Referral to Prosecuting Authority

At the expiration of 30 days following the written notice to the person and the caretaker, a determination will be made as to whether the situation has been corrected. If not, the SIU shall refer the situation to the prosecuting authority in writing. The referral, supported by a report of investigation, shall set forth the essential data which indicates the basis for the county's suspicion of misuse of funds, as follows:

20-101	SUSPECTED MISUSE OF CALWORKS FUNDS (Continued)	20-101
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- .221 The length of time the person has been living in the home.
- .222 The length of time the person's income has not been sufficient to meet that person's needs.
- .223 The dates the person and the caretaker were informed orally and in writing that they were considered to be misusing CalWORKS funds and the consequences.
- .224 The date the CWD ascertained that the situation had not been corrected and the family's explanation as to why the person had not secured income or moved.
- .225 The amount the person contributed to the CalWORKS recipients during the past 12 months.
- .226 The current amount of the CalWORKS recipient's total need, source and amount of income, and grant.
- .227 Any other available information pertinent to the situation.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063(b), 10553, and 10554, Welfare and Institutions Code.

**FRAUD AND SUSPECTED LAW VIOLATIONS
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CHAPTER 20-200 OTHER SUSPECTED CRIMES

20-201 OTHER SUSPECTED CRIMES 20-201

The regulations in Chapters 20-000 and 20-100 do not deal with all of the possible crimes that may be committed in the course of applying for or receiving **the** benefits or services of the CWD.

.1 Unsuccessful Efforts to Obtain Benefits Fraudulently

Such efforts generally fall into two classes:

- .11 A material misrepresentation is made under oath or under penalty of perjury, or**
- .12 A material misrepresentation is neither sworn to nor made under the penalty of perjury.**

Cases in which the CWD has reasonable grounds to suspect that a material misrepresentation was willfully and knowingly **made should** be promptly referred to the prosecuting authority, even though the falsity of the statement was discovered before any overpayment/overissuance of benefits occurred. The prosecuting authority will then have the obligation to decide whether or not to take **action and**, if so, whether there should be prosecution for attempted **theft, for** perjury, or some other crime.

.2 Crimes Not Involving Fraud

Incidents involving physical violence, abuse of a child, and other crimes which are witnessed or experienced by CWD staff in the course of their duties shall also be reported promptly to the proper law enforcement agency.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, and 10600, Welfare and Institutions Code.

**FRAUD AND SUSPECTED LAW VIOLATIONS
INTENTIONAL PROGRAM VIOLATIONS IN THE FS PROGRAM**

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.1 Definition: Intentional Program Violation

For the purpose of this section, an Intentional Program Violation (IPV) applies to the Food Stamp Program and is defined as having intentionally:

.11 Made a false or misleading statement, or misrepresented, concealed, or withheld facts, or

.12 Committed any act which constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

.2 County Responsibilities

.21 Investigation and Referral

The CWD's SIU shall be responsible for investigating any case of alleged IPV. The SIU may confer with the local prosecuting authority in establishing criteria for prioritizing cases to be assigned for investigation and prosecution. In those cases in which it appears that clear and convincing evidence exists to substantiate the allegation of an IPV, the SIU shall file a request for a complaint with the prosecuting authority as provided in Section 20-007.3.

.22 Disqualification Consent Agreement

The CWD shall have the option of allowing accused individuals to sign Disqualification Consent Agreements for cases of deferred adjudication. For the purpose of this section, the term deferred adjudication applies to the following:

- (a) Those cases in which a determination of guilt is not obtained from a court due to the accused individual having met the terms of a court order; or
- (b) Those cases which are not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor.

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.221 CWDs using the Disqualification Consent Agreements shall conform with the following requirements:

(a) Advance written notification shall be sent to the accused household member which informs the individual of the consequences of consenting to disqualification. This written notification shall include, at a minimum, the following:

(1) A statement for the accused individual to sign that the individual understands the consequences of consenting to disqualification, accompanied by a statement that the head of household must also sign the Disqualification Consent Agreement, if the accused individual is not the head of household.

(2) A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of the disqualification, even though the accused individual was not found guilty of civil/criminal misrepresentation or fraud.

(3) A warning of the disqualification penalties which could be imposed (as provided in Section 20-300.31) and a statement of which penalty shall be imposed as a result of the respondent having consented to disqualification.

(4) A statement that any remaining household members shall be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim.

(b) The Disqualification Consent Agreement shall contain statements indicating whether the respondent wishes to admit that facts as presented are correct. Those statements shall be worded as follows:

(1) I admit to the facts as presented and understand that a disqualification penalty shall be imposed if I sign this Disqualification Consent Agreement.

20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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(2) I do not admit that the facts as presented are correct. However, I have chosen to sign this Disqualification Consent Agreement and understand that a disqualification penalty shall result.

(c) After a respondent has signed a Disqualification Consent Agreement and a disqualification penalty has been imposed, no further administrative appeal procedure exists. The disqualification penalty cannot be changed by a subsequent Administrative Disqualification Hearing or a state hearing decision. The respondent, however, is entitled to seek relief in a court having appropriate jurisdiction.

.23 Administrative Disqualification Hearing

Those cases in which the prosecuting authority has determined (a) that facts do not warrant prosecution, or (b) those cases previously referred for prosecution and declined, shall be returned to the CWD and the CWD shall initiate referral action for an administrative disqualification hearing through the CDSS in accordance with CDSS' Manual of Policies and Procedures, Division 22.

.24 The CWD shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of the appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

.25 If the Administrative Disqualification Hearing or the court finds that the household member committed an IPV, or if the accused individual has signed a Disqualification Consent Agreement or a Waiver of Right to an Administrative Disqualification Hearing, the CWD shall mail an Administrative Disqualification Notice (DFA 377.7A) to the household member.

20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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Following an administrative hearing or a Waiver of Right to an Administrative Disqualification Hearing, the notice shall be sent prior to the disqualification action. The notice shall inform the household member of the decision, the reason for the decision, and the date the disqualification will take effect. The notice shall also advise the remaining household members of the allotment that they will receive during the disqualification period, or that they may reapply after the disqualification period ends. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification shall start as if the individual was in fact eligible. In addition, the CWD shall send the household a Repayment Notice (DFA 377.7B) and a Repayment Agreement (DFA 377.7C) for restitution as specified in CDSS' Manual of Policies and Procedures, Division 63, Section 63-801.43. The procedures for handling the income and resources of the disqualified member shall be in accordance with regulations in CDSS' Manual of Policies and Procedures, Division 63, Section 63-503.441.

.3 Disqualification Penalties

.31 Individuals found to have committed an IPV shall be ineligible to participate in the Food Stamp Program as follows:

.311 Except as specified in Sections 20-300.312, .313, .314, and .315, twelve months for the first violation, twenty-four months for the second violation, and permanently for the third violation.

(a) For the penalties specified in Section 20-300.311 above, the individual(s) shall have been found to have committed the IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction.

.312 Twenty-four months for the first violation and permanently for the second violation of trading food stamps for a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 USC 802).

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21 USC 802(6) provides:

"The term 'controlled substance' means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1954."

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20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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- (a) For the penalties specified in Section 20-300.312 above, the individual(s) shall have been found to have committed the **IPV** by a court of appropriate jurisdiction.
- .313 Permanently for the first violation for trading food stamps for firearms, ammunition, or explosives.
 - (a) For the penalties specified in Section 20-300.313 above, the individual(s) shall have been found to have committed the **IPV** by a court of appropriate jurisdiction.
- .314 For a 10-year period for falsifying the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously.
 - (a) For the penalty specified in Section 20-300.314, the individual(s) shall have been found to have committed the **IPV** either through an administrative disqualification hearing or by a court of appropriate jurisdiction.
- .315 Permanently for trafficking food stamp benefits of \$500 or more. For purposes of this subsection, trafficking is defined in 7 USC 2024(b) and (c).
 - (a) For the penalty specified in Section 20-300.315, the individual(s) shall have been found to have committed an **IPV** by a court of appropriate jurisdiction.
- .32 The disqualification penalties shall apply only to individuals disqualified for **IPVs** which occurred during a certification period after the household has been notified by the CWD of the new disqualification penalties. If the **IPV** which led to the disqualification occurred prior to April 1, 1984 or prior to the household's notification of the disqualification penalties, the individual(s) shall be disqualified in accordance with the Food Stamp Program's disqualification penalty regulations in effect at the time of the individual's offense.

20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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- .33 One or more **IPVs** which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining **which** penalty to impose.
 - .34 The CWD shall disqualify only the individual(s) found to have committed the **IPV** and not the entire household.
 - .35 Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household.
 - .36 If the individual is not eligible for the Food Stamp Program at the time the disqualification period is to begin, the period of disqualification shall start as if the individual was in fact eligible.
 - .37 The disqualification of an individual for an **IPV** in one political jurisdiction shall be valid in another.
 - .38 The same act of **IPV** repeated over a period of time shall not be separated so that separate penalties can be imposed.
 - .39 If the accused household member is found guilty of an **IPV** by the court, and the court fails to impose a disqualification penalty, the county shall impose a disqualification period in accordance with the penalties specified in this section, unless contrary to the court order.
- .4 Time Frames for Imposition of Disqualification Penalties
- .41 By Administrative Disqualification Hearing
- If the hearing authority rules that the household member has committed an **IPV**, the CWD shall disqualify the household member beginning with the first month following the date the household member receives the **Administrative Disqualification Notice**.

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- .411 Five days from the date the notice is mailed shall be considered sufficient time for the written notice to have been received by the household, provided it has not been returned as undeliverable by the post office.
 - .42 By Court Order
 - If disqualification is ordered by a court of appropriate jurisdiction, but the date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification within 45 days of the date the disqualification was ordered.
 - .43 By Disqualification Consent Agreement
 - If the household member signed the Disqualification Consent Agreement, then the period of disqualification shall begin within 45 days of the date that the consent agreement was signed, unless contrary to a court order.
- .5 Reporting Requirements
 - .51 The CWD shall report to FCS information concerning individuals disqualified for an IPV, within 30 days of the date the disqualification took effect. This information shall be reported on the Disqualified Recipient Report (DPS 524).
 - .52 The CWD shall establish and maintain a food stamp disqualification file containing all information received from CDSS concerning individuals who have been disqualified in that county or in another political jurisdiction. The CWD shall use this information for the following purposes:
 - .521 To determine eligibility of individual Food Stamp Program applicants prior to food stamp certification in cases where a welfare agency has reason to believe a household member is subject to disqualification in another jurisdiction.
 - .522 To ascertain the appropriate penalty to impose based on past disqualification in a case under consideration.

20-300	INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued)	20-300
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- .53 The CWD shall be permitted to use information contained in the food stamp disqualification file for the following purposes:
- .531 To screen all program applicants prior to certification; and
- .532 To match the entire disqualification file against the current caseload.
- .54 CWDs shall submit revisions to original disqualification reports when the disqualification is reversed by a court of appropriate jurisdiction.

NOTE: Authority cited: Sections 10553, 10554 and 18901, Welfare and Institutions Code. Reference: Sections 10553, 10554 and 18901, Welfare and Institutions Code, Public Law (PL) 103-66, Section 13942; PL 104-193, Sections 813, 814, and 820 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); 7 USC 2024(b) and (c); 21 USC 802; USDA Food and Consumer Services, Administrative Notice No. 94-04 dated October 8, 1993; and Garcia and Zellar v. Concannon et al.

**FRAUD AND SUSPECTED LAW VIOLATIONS
IPV IN THE CALWORKS PROGRAM**

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**CHAPTER 20-350 INTENTIONAL PROGRAM VIOLATIONS (IPV) IN THE
CALWORKS PROGRAM**

20-351 DEFINITIONS 20-351

For purposes of this section the terms defined below apply to the CalWORKs Program.

- a. (1) Administrative Disqualification Hearing - means a hearing established to determine whether a participant in the CalWORKs Program has committed a CalWORKs IPV by intentionally providing false information in order to qualify for CalWORKs, to avoid a decrease in the AU's aid payment or increase the AU's aid payment.
- b. (Reserved)
- c. (Reserved)
- d. (1) Deferred adjudication - means those cases:
 - (a) In which a determination of guilt is not obtained from a court due to the applicant/recipient having met the terms of a court order; or
 - (b) Which are not prosecuted due to the applicant/recipient having met the terms of an agreement with the prosecutor.
- (2) Disqualification Consent Agreement - is form ABCD 478(A) (10/95).
- (3) Fraud penalty - means that period of time when the needs of the individual found to have committed a CalWORKs IPV are not considered when computing the AU's cash aid payment, when the AU is otherwise eligible.
- (4) Disqualified Recipient Report - is form DPS 524 (3/92).
- e. (Reserved)
- f. (Reserved)
- g. (Reserved)
- h. (Reserved)

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- i. (1) Intentional Program Violation (IPV) - "IPV" means that a determination made by a state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, or pursuant to an administrative disqualification hearing, that an individual has intentionally:
- (a) Made a false or misleading statement or misrepresented, concealed, or withheld facts; or
 - (b) Committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity; and
 - (c) Committed these acts to establish or maintain CalWORKs eligibility, or to increase or prevent a reduction in the amount of the CalWORKs grant.
- j. (Reserved)
- k. (Reserved)
- l. (Reserved)
- m. (Reserved)
- n. (1) Notice of Administrative Disqualification - is form ABCD 239.7A (10/95).
- o. (Reserved)
- p. (Reserved)
- q. (Reserved)
- r. (Reserved)
- s. (Reserved)
- t. (Reserved)
- u. (Reserved)
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)

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y. (Reserved)

z. (Reserved)

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: 7 CFR 273.16(h); Sections 10063(b) and 11486, Welfare and Institutions Code; 45 CFR 235.112; and 45 CFR 235.113.

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.1 Investigation and Referral

The county welfare department's (CWD's) Special Investigative Unit (SIU) shall be responsible for:

.11 Investigating any case of alleged IPV.

.12 Establishing criteria for prioritizing cases to be assigned for investigation and prosecution.

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.121 The SIU may confer with the local prosecuting authority to establish the criteria required in Section 20-352.12 above.

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.13 Filing a request for a complaint with the prosecuting authority as provided in Section 20-007.3 in those cases in which it appears that clear and convincing evidence exists to substantiate the allegation of IPV.

.2 Disqualification Consent Agreement

The CWD shall have the option of allowing accused individuals to sign Disqualification Consent Agreements for cases of deferred adjudication.

.21 CWDs using the Disqualification Consent Agreements shall conform to the following requirements:

.211 Advance written notification shall be sent to the accused individual of the assistance unit which informs the individual of the consequences of consenting to disqualification. This written notification shall include, at a minimum, the following:

(a) A statement for the accused individual to sign that he/she understands the consequences of consenting to disqualification.

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- (b) A statement that consenting to disqualification will result in a reduction in the AU's CalWORKs aid payment because the grant computation will be made without considering the needs of the accused individual for the period of the disqualification, even though the accused individual was not found guilty of civil/criminal misrepresentation or fraud.
 - (c) A warning of the disqualification penalties which could be imposed (as provided in Section 20-353.1) and a statement of which penalty shall be imposed as a result of the accused individual having consented to disqualification.
 - (d) A statement that any remaining assistance unit members shall be held responsible for repayment of the resulting overpayment, unless the accused individual has already repaid the overpayment.
- .212 The Disqualification Consent Agreement shall contain statements indicating whether the accused individual wishes to admit that facts as presented are correct. Those statements shall be worded as follows:
 - (a) I admit to the facts as presented and understand that a disqualification penalty shall be imposed if I sign this Disqualification Consent Agreement.
 - (b) I do not admit that the facts as presented are correct. However, I have chosen to sign this Disqualification Consent Agreement and understand that a disqualification penalty shall result.
- .213 After an accused individual has signed a Disqualification Consent Agreement and a disqualification penalty has been imposed, no further administrative appeal procedure exists.
 - (a) The disqualification penalty cannot be changed by a subsequent Administrative Disqualification Hearing or a state hearing decision.
 - (b) The accused individual, however, shall be entitled to seek relief in a court having appropriate jurisdiction.
- .214 The Disqualification Consent Agreement shall be confirmed by the court.

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- .3 The CWD shall not initiate an administrative disqualification hearing in any jurisdiction against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.
- .4 Notice of Administrative Disqualification
- .41 The CWD shall mail a Notice of Administrative Disqualification to the accused individual if:
- .411 The administrative disqualification hearing or the court finds that the accused individual committed IPV, or
- .412 The accused individual has signed a Disqualification Consent Agreement or an Administrative Disqualification Hearing Waiver.
- .42 Prior to the disqualification action, the CWD shall send a Notice of Administrative Disqualification to the accused individual.
- .421 The notice shall inform the accused individual of the decision, the reason for the decision, and the date the disqualification will take effect.
- .422 If the accused individual is no longer on aid, the notice shall inform the individual that the period of disqualification will be deferred until the individual reapplies and is determined to be eligible for benefits.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11486, Welfare and Institutions Code; 7 CFR 273.16(a), (e), (g), and (h); and 45 CFR 235.113(d).

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- .1 The following penalties apply to individuals who are found by a state or federal court or by an administrative disqualification hearing to have committed a fraudulent act prior to January 1, 1998:
- .11 Except as provided in Section 20-353.8, individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to receive CalWORKs benefits as follows:
- .111 Six months for the first violation.
- .112 Twelve months for the second violation.
- .113 Permanently for the third violation.
- .12 Individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction, based upon submitting more than one application for the same period of time and for the purpose of receiving more than one grant of aid.
- or
- for submitting documentation for nonexistent children, or submitting false documentation for the purpose of showing ineligible children to be eligible for aid, shall be ineligible to receive CalWORKs benefits as follows:
- .121 Two years for the first violation.
- .122 Four years for the second violation.
- .123 Permanently for the third violation.
- .2 The following penalties apply to individuals who are found to have committed a fraudulent act on or after January 1, 1998, by a state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere. The finding that an individual committed a fraudulent act may also be made by an administrative disqualification hearing except as provided in Handbook Sections 20-353.212, .221, and .241.
- .21 Permanent penalty for:
- .211 Individuals found to have committed any of the following acts:

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(Continued)

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- (a) made fraudulent statements or representations regarding their place of residence, in order to receive assistance simultaneously, from two or more states or counties.
 - (b) submitted false documentation for nonexistent or ineligible children, or
 - (c) received cash benefits in excess of \$10,000 through fraudulent means:
- .212 Individuals convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, for receipt or attempted receipt of cash aid benefits in excess of \$5,000 through fraudulent means:
- .213 Individuals found to have committed, upon the third occasion, any of the following acts:
 - (a) making false or misleading statements or misrepresenting, concealing, or withholding facts,
 - (b) committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity; or
- .214 Individuals found to have committed fraud, upon the third occasion, due to the submittal of more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid, in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.
- .22 Five-year penalty for:
 - .221 Individuals convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty or nolo contendere, that does not meet the permanent penalty criteria and the overpayment is more than \$2,000 but less than \$5,000.
- .23 Four-year penalty for:
 - .231 Individuals found to have committed fraud, upon the second occasion, due to the submittal of more than one application for the same type of aid for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of the aid.

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.24 Two-year penalty for:

- .241 Individuals convicted of a felony in state or federal court, including any determination made on the basis of a plea of guilty, that does not meet the permanent penalty criteria and the overpayment is less than \$2,000; or
- .242 Individuals found to have committed fraud, upon the first occasion, due to the submittal of more than one application for the same type of aid, for the same period of time, for the purpose of receiving more than one grant of aid in order to establish or maintain the family's eligibility for aid, or increasing, or preventing a reduction in the amount of that aid.

.25 Twelve-month penalty for:

- .251 Individuals found to have committed, upon the second occasion, any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid:
 - (a) making false or misleading statements or misrepresenting, concealing, or withholding facts; or
 - (b) committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

.26 A six-month penalty for:

- .261 Individuals found to have committed, upon the first occasion, any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid:
 - (a) making false or misleading statements or misrepresenting, concealing, or withholding facts; or
 - (b) committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

HANDBOOK ENDS

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- .3 The fraud penalties outlined in Handbook Sections 20-353.2 through .261 shall apply only to individuals disqualified for committing an IPV act on or after January 1, 1998.
- .31 If a fraudulent act is committed over a period of time which begins prior to January 1, 1998 but extends beyond January 1, 1998, the fraud penalties outlined in Handbook Sections 20-353.2 through .261 apply.
- .4 No more than two IPV acts which occurred prior to the implementation of these penalties shall be considered when determining which fraud penalty to impose. The CWD shall disqualify only the individual(s) found to have committed the IPV.
- .5 If the individual is not eligible for the CalWORKs Program at the time the disqualification period is to begin, the period shall be postponed until the person applies for and is determined to be eligible for benefits.
- .6 The disqualification of an individual for an IPV in one political jurisdiction shall be valid in another.
- .7 The same IPV act repeated over a period of time shall not be separated so that separate penalties can be imposed.
- .8 If the accused individual is found guilty of an IPV by the court and the court fails to impose a disqualification penalty, the county shall impose a disqualification period in accordance with the penalties specified in this section, unless contrary to the court order.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063(b) and 11486, Welfare and Institutions Code; 42 U.S.C. 616(b); 7 CFR 273.16(b), (e)(8), (f)(2), (g)(2), and (i)(4)(A); and 45 CFR 235.112 and .113; Federal Terms and Conditions for the California Work Pays Demonstration Project (CWPD) approved by the United States Department of Health and Human Services on March 9, 1994 and Amendments to the Federal Terms and Conditions for the California Work Pays Demonstration Project approved by the United States Department of Health and Human Services on September 11, 1995.

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.1 By Administrative Disqualification Hearing

If the hearing authority rules that the accused individual has committed an IPV, the CWD shall disqualify the individual beginning with the first month following the date the individual receives the Notice of Administrative Disqualification.

- .11 Five days from the postmarked date the Notice of Administrative Disqualification is mailed shall be considered sufficient time for it to have been received by the individual, provided it has not been returned as undeliverable by the post office.

.2 By Court Order

If disqualification is ordered by a court of appropriate jurisdiction, but the date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification within 45 days of the date the disqualification was ordered.

.3 By Disqualification Consent Agreement

If the individual signed the Disqualification Consent Agreement, then the period of disqualification shall begin within 45 days of the date that the consent agreement was signed, unless contrary to a court order.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11486, Welfare and Institutions Code; and 7 CFR 273.16(e)(8), (g)(2), and (h)(2).

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- .1 The CWD shall submit to CDSS the Disqualified Recipient Report within 30 days of the date the disqualification due to the fraud penalty took effect, or would have taken effect for a currently ineligible individual whose disqualification is pending future eligibility.
- .2 CWDs shall submit to CDSS a revised Disqualified Recipient Report in the following situations:
 - .21 On those cases where the disqualification was pending future eligibility, and the individual once again becomes eligible and the disqualification due to the fraud penalty is imposed.
 - .22 In cases where the disqualification is reversed by a court of appropriate jurisdiction.
- .3 The CWD shall establish and maintain a fraud penalty file containing all information received from CDSS concerning individuals who have been disqualified in that county or in another political jurisdiction.
 - .31 The CWD shall use information contained in the fraud penalty file to:
 - .311 Determine eligibility of applicants prior to granting of aid when the CWD has reason to believe an applicant is subject to disqualification due to a fraud penalty in another jurisdiction.
 - .312 Ascertain the appropriate penalty to impose, based on past disqualification, in a case under consideration.
 - .32 The CWD shall be permitted to use information contained in the fraud penalty file to:
 - .321 Screen all program applicants prior to granting aid.
 - .322 Match the entire fraud penalty file against the current caseload.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11486, Welfare and Institutions Code; and 7 CFR 273.16(i)(1), (3), (4), (6), and (7).

**FRAUD AND SUSPECTED LAW VIOLATIONS
CALWORKS/FS INCERCEPT PROGRAM**

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- .1 The CalWORKS/FS Intercept Program is a voluntary program designed to assist the counties in the collection of delinquent welfare overpayments/overissuances.
- .2 It is important to note at the outset that certain limitations are imposed on the CalWORKS/FS Intercept Program. Section 8790.2 of the State Administrative Manual (SAM) provides, in part:
- .21 "...The offset procedure augments rather than replaces existing tax and other collection procedures and is for use when effective procedure does not exist and the State would otherwise suffer loss. An agency's remedy under the special laws applicable to its particular program and the general laws of the State is normally more appropriate and should be used unless circumstances are such that the offset procedure is the most logical method of collection...."

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NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10063(b), 10553, and 10554, Welfare and Institutions Code and Section 12419.5, Government Code.

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- a. (Reserved)
- b. (Reserved)
- c. (Reserved)
- d. (Reserved)
- e. (Reserved)
- f. (1) Franchise Tax Board (FTB) --means the state governmental agency in California designated for collecting State income taxes.
- (2) Food and Nutrition Service (FNS) -- means that part of the United States Department of Agriculture (USDA) that has responsibility for the Food Stamp Program.

20-401	DEFINITIONS (Continued)	20-401
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- (3) Federal Salary Offset -- means that part of the Federal Tax Refund Offset Program that requires delinquent food stamp overissuances to current federal government employees be collected through wage attachment.
- (4) Federal Tax Refund Offset Program -- means the offset program administered by FNS in conjunction with the Internal Revenue Service (IRS) to intercept federal tax refunds to repay a delinquent food stamp overissuance due to an intentional program violation (IPV) or inadvertent household error (IHE).
- g. (Reserved)
- h. (Reserved)
- i. (1) Intercept -- means an action of taking money from an individual's state income tax refund and/or lottery winnings to satisfy a welfare overpayment/overissuance.
(2) Internal Revenue Service (IRS) -- means the federal governmental agency designated to collect federal income taxes.
- j. (1) Judgment debt -- means an overpayment or overissuance that has been reduced to a final judgment entered by a court ordering the debtor to pay the debt.
- k. (Reserved)
- l. (1) Legally enforceable -- means the authority to establish and collect food stamp overissuances based on the food stamp regulations and relevant court orders in effect at the time of the overissuance.
- m. (Reserved)
- n. Non-court-ordered restitution -- means repayment of aid overpaid or benefits overissued as a result of, but not limited to, the following: inadvertent household errors, administrative errors, a signed waiver of right to an administrative disqualification hearing, or a signed Disqualification Consent Agreement.
- o. (Reserved)
- p. (Reserved)
- q. (Reserved)

20-401	DEFINITIONS (Continued)	20-401
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- r. (1) Respond to a demand -- means either paying or negotiating to pay.
- (2) Right of recovery -- means the authority to initiate the intercept and make collections based on overpayment/overissuance regulations and relevant court orders in effect at the time of the overpayment/overissuance.
- s. (Reserved)
- t. (Reserved)
- u. (1) United States Department of Agriculture (USDA) -- means the federal governmental agency that has overall responsibility for the Food Stamp Program.
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12419.5, Government Code; Anderson v. McMahon, Superior Court, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989; Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 17, 1993 (58 FR 48633); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 273.18.

20-402	GENERAL REQUIREMENTS	20-402
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- .1 The county shall have a right of recovery or determined that the debt is legally enforceable, prior to submission of the case for intercept as prescribed in Manual of Policies and Procedures (MPP) Section 20-403.
- .2 Annually, each participating county shall submit to the California Department of Social Services (CDSS) a list of eligible cases. Eligible cases shall be submitted in the manner and timeframe prescribed in MPP Section 20-404.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12419.5, Government Code; Anderson v. McMahon, Superior Court, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989; Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 273.18.

20-403 ELIGIBILITY REQUIREMENTS**20-403**

- .1 Cases for IRS in which there is a right of recovery or legally enforceable shall be delinquent at least 3 months and not greater than 10 years except in the case of a judgment debt and have an overpayment/overissuance(s) of at least \$25. Cases for FTB must be delinquent at least 3 months, but may be more than 10 years old and have an overpayment/overissuance(s) of at least \$10. Both IRS and FTB cases shall meet at least one of the following requirements:
 - .11 Restitution of CalWORKs overpayments due to either applicant/recipient and/or county administrative errors for which the household has failed to make a response to a written demand letter(s).
 - .111 Repealed by Manual Letter No. CFC-98-01, effective 7/1/98.
 - .12 Court-ordered restitution of CalWORKs overpayments.
 - .13 Court-ordered restitution of a food stamp overissuance as a result of an intentional program violation (IPV) as defined in MPP Section 20-300.1.
 - .14 Restitution of food stamp overissuances which are the result of an IPV as determined by an Administrative Disqualification Hearing in accordance with MPP Section 20-300.23 and MPP Chapter 22-200.
 - .15 Non-court-ordered restitution of all food stamp overissuances for which the household has failed to respond to the written demand letter(s) and for which the claim has not been terminated.
- .2 The following cases shall not be eligible for intercept:
 - .21 Cases which are eligible for a CalWORKs grant adjustment or a food stamp allotment reduction;
 - .22 Cases in which the individual is making regular restitution payments;
 - .23 Cases in which the time to request a state hearing has not lapsed;
 - .24 Cases in which the individual has requested a state hearing or is awaiting a decision from a state hearing or has received an adopted state hearing decision which determined that there is no overpayment/overissuance or the overpayment/overissuance has already been recovered. If the individual has requested a state hearing or is awaiting a decision from a state hearing, the county welfare department shall notify CDSS, prior to December 1 each year, to remove the individual from the tax intercept program; and

20-403	ELIGIBILITY REQUIREMENTS	20-403
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(Continued)

- .25 Nonfraudulent overpayment/overissuance(s) totaling less than \$35 in accordance with MPP Sections 44-350.141, 44-352.21, and 63-801.411.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10063(b), Welfare and Institutions Code; Section 12419.5, Government Code; Anderson v. McMahon, Superior Court, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989; Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 271, 272, and 273.18.

20-404	FORMAT	20-404
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- .1 Counties shall submit information regarding eligible cases either by magnetic data tape, cartridge, diskette, wire-to-wire, or paper documents. Such information shall contain, but is not limited to, the following:
- .11 County number and name;
- .12 Name of individual;
- .13 Address of individual;
- .14 Social security number of individual;
- .15 Total amount of delinquent CalWORKs overpayment or FS overissuance separated as to FTB amount owed, administrative error (AE) amount owed, IPV amount owed and IHE amount owed; and

20-404	FORMAT (Continued)	20-404
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- .16 Optional information (i.e., case, district, and/or worker numbers).
- .2 Participating counties shall submit cases for intercept to CDSS by May 1 of each year.
- .3 Counties shall update delinquent case amounts submitted to CDSS when county information indicates that an erroneous or an excess amount is to be intercepted if action is not taken. Update information shall contain, but not be limited to, the following:
 - .31 County name;
 - .32 Tax year;
 - .33 Social security number;
 - .34 Individual's name;
 - .35 Revised amount; and
 - .36 Type code (i.e., "2", "3", or "4") for "changing" the amount requested, or "deleting" an individual from the list or "the amount refunded" to an individual due to an overcollection.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10063(b), Welfare and Institutions Code; Section 12419.5, Government Code; Anderson v. McMahon, Superior Court, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989; Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 273.18.

20-405	CERTIFICATION	20-405
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- .1 The individual who supervised the compilation of the list of delinquent accounts shall complete and sign a statement under penalty of perjury certifying the accuracy of the information submitted.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 12419.5, Government Code; Anderson v. McMahon, Superior Court, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989.

20-406	INTERCEPT WARNING NOTICE TO DELINQUENT RECIPIENTS	20-406
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- .1 A warning notice shall be sent to delinquent CalWORKs/FS recipients by CDSS at least 30 days prior to intercept for FTB and the state agency shall mail a pre-offset notice for claims to be referred for collection through the IRS by September 1, preceding the offset year indicating that their name is being referred to FTB and/or IRS for intercept.
- .11 The warning notice shall contain, but not be limited to, the following information:
- .111 The certified delinquent amount submitted by the county to CDSS;
 - .112 The name, address, and phone number of the county submitting the intercept information;
 - .113 The recipient's right to contest the referral and request an administrative review before an agency representative as outlined in Section 20-407;
 - .114 Possible reasons for disagreeing with the action, such as the amount(s) shown as past due is incorrect or an assertion by the individual that he/she never received CalWORKs or food stamp benefits.
- .2 For the purposes of FTB intercept, if CDSS does not receive an address from the county or FTB for a recipient, the recipient will be removed from the file by CDSS.
- .3 The CWD shall attempt to identify a more current address for cases in which the warning notices are returned as undeliverable by the post office.
- .31 If a more current address is not found, the notice and envelope shall be placed in the case file and the file annotated to document the attempt to mail; or the attempt to mail shall be recorded on a computerized accounts receivable system and the notice and envelope filed centrally. The notice and envelope shall be retained in accordance with MPP Section 23-353 (Records Retention).

20-406	INTERCEPT WARNING NOTICE TO DELINQUENT RECIPIENTS	20-406
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(Continued)

- .32 Notices that are undeliverable due to clerical or typographical errors shall be corrected and remailed by the CWD.
- .33 Cases in which attempts to notify the recipients have been unsuccessful shall not be deleted from the intercept submission list.
- .4 Warning notices for the federal tax intercept shall use the address information provided by the IRS. If a warning notice is returned as undeliverable, no further action is necessary as the standard for a reasonable attempt to notify an individual has been met.

HANDBOOK BEGINS HERE

- .5 If a claim is referred to the IRS, a charge for the administrative cost of collection will be added to the claim amount, and that amount will be deducted from the federal tax refund.

HANDBOOK ENDS HERE

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 10063(b), Welfare and Institutions Code; Section 12419.5, Government Code and Wightman v. Franchise Tax Board, 249 Cal Rptr. 207, 202 C.A. 3d 966; Anderson v. McMahon, Superior Court, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989; Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 273.18.

20-407	ADMINISTRATIVE REVIEW PROCEDURES	20-407
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- .1 If a recipient challenges an intercept submission after receipt of the warning notice, the submitting county shall attempt to resolve the dispute through an administrative review which may include, at the recipient's request, a face-to-face meeting. This review may also be requested at any time during the calendar year in which a tax intercept may have occurred. The informal review procedure is as follows:
 - .11 An impartial agency representative appointed by the agency director and empowered to correct the submission by the county shall conduct the review. When requested, this review must be provided within ten (10) working days of the receipt of the request.

20-407	ADMINISTRATIVE REVIEW PROCEDURES	20-407
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- .12 The agency representative shall review the case information that substantiates the "right of recovery" or "legally enforceable," including the cause(s), amount(s), and period(s) of the overpayments/overissuances.
- .13 The agency representative shall review all necessary legal documents and proof of payment by the recipient.
- .14 The agency representative shall report the findings to the recipient in writing within ten (10) working days of the review. The findings shall inform the recipient of the right to a state hearing under MPP Division 22.
- .15 With regard to federal tax intercept, the individual is entitled to have FNS review the state hearing decision. CDSS shall inform the individual of this right in writing at the time the state hearing decision is rendered.
- .16 If an error is found, the county shall:
 - .161 Correct all records, accounts receivable, and automated systems;
 - .162 Submit an updated case delinquent amount to CDSS within 10 calendar days; and
 - .163 Promptly return any excess money intercepted to the recipient. (See MPP Section 20-408.)

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12419.5, Government Code; Wightman v. Franchise Tax Board, 249 Cal. Rptr. 207, 202 C.A. 3d 966, and Anderson v. McMahon, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989; Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 273.18.

20-408	REFUND OF EXCESS INTERCEPTS	20-408
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- .1 Counties shall refund excess money intercepted to the recipient within ten (10) calendar days after the decision has been made to refund money regardless of whether or not the counties have received the intercepted funds.

20-408 REFUND OF EXCESS INTERCEPTS 20-408

(Continued)

- .2 When excess intercepted money is refunded to the recipient, but is returned by the post office as undeliverable, counties shall attempt to identify a more current address and remail the refund.
- .3 Any money which is undeliverable shall be retained by the county and not returned to CDSS.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 12419.5, 50050, 50052, and 50055, Government Code; Anderson v. McMahon, Alameda County, 1989, No. 620039-4, stipulation and court order for entry of judgment, filed August 22, 1989.

20-409 SAFEGUARD PROCEDURES 20-409

- .1 Counties shall establish and design procedures to prevent unauthorized uses of the information and to protect the confidentiality of the information received from the Federal Tax Refund Offset Program (FTROP). The procedures shall contain, but are not limited to the following:
 - .11 Secure storage area;
 - .12 Limit access to FTROP information;
 - .13 Destruction of FTROP information; and
 - .14 Employee awareness of civil and criminal penalties involved with improper disclosure of FTROP information.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Federal Register, August 20, 1991 (56 FR 41325-31); Federal Register, August 28, 1992 (57 FR 39176-77); Federal Register, August 12, 1993 (58 FR 42937); Federal Register, September 1, 1995 (60 FR 45990); Deficit Reduction Act of 1984 (DEFRA) (31 USC 2720A); Food Stamp Act of 1977 [7 USC 2026 Section 17 (b)]; and 7 CFR 273.18.